

OFFICE OF THE ATTORNEY GENERAL 91-00217



JIMMY EVANS
ATTORNEY GENERAL
STATE OF ALABAMA

APR 16 1991

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY ALABAMA 36130
AREA (205) 242-7300

Honorable Fred Horn
State Senator
333 16th Avenue, SW
Birmingham, Alabama 35211

Legislators - Funds - Expenses

The Legislature has the authority
to retroactively reimburse
legislators for expenses.

Dear Senator Horn:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Can legislators be retroactively reimbursed
for expenses?

FACTS AND ANALYSIS

Your request presents the following information:

During the organizational session of
each quadrennium, the Alabama Legislature by
joint resolution creates the Joint Interim
Committee on Finances and Budgets to hold
budget hearings.

Senate Joint Resolution 9 of the 1991
Organizational Session which would have
established the Committee for the current
quadrennium was vetoed by Governor Hunt

several weeks ago. Consequently, the Joint Interim Committee on Finances and Budgets does not exist.

The Legislative Council and leadership of the Senate and House met and decided to proceed with budget hearings beginning March 5, 1991. In addition, it was decided that a resolution would be introduced during the Regular Session which begins April 16, 1991, seeking retroactive payment for expenses incurred by certain members of the Budget Hearings Committee.

Amendment 57 of the Constitution of Alabama 1901 governs legislative expense allowances and provides in pertinent part as follows:

" . . . The pay of members of the legislature shall be ten dollars per day. Each member of the legislature shall be paid ten cents per mile in going from his residence to, and in returning to his residence from, the seat of government, to be computed by the nearest usual route traveled; and not more than one such travel allowance shall be paid for each session of the legislature. In addition to his travel allowance, each member of the legislature also shall be allowed expenses, other than actual expenses of traveling, not exceeding an amount to be fixed by the legislature, incurred in the performance of his duties; but such expense allowance shall not be less than the smallest allowance to any other person traveling within the state in the service of the state of Alabama, or any of its agencies, for expenses other than actual expenses of traveling. . . ." (Emphasis added.)

The Alabama Supreme Court has held that by virtue of Amendment 57 the Legislature has plenary power with regard to expense allowances and may fix expense allowances in any manner it deems appropriate. Hart v. deGraffenried, 388 So.2d 1196 (Ala. 1980). Accordingly, the Legislature has the authority to retroactively reimburse legislators for expenses.

Honorable Fred Horn
Page 3


CONCLUSION

The Legislature has the authority to retroactively reimburse legislators for expenses.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

JE/BFS/dn

0698N